



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 10994402

Date: NOV. 25, 2020

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Worker (Extraordinary Ability)

The Petitioner, an interior designer, seeks classification as an alien of extraordinary ability. *See* Immigration and Nationality Act (the Act) section 203(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). This first preference classification makes immigrant visas available to those who can demonstrate their extraordinary ability through sustained national or international acclaim and whose achievements have been recognized in their field through extensive documentation.

The Director of the Nebraska Service Center denied the petition, concluding that the record did not establish that the Petitioner had satisfied at least three of ten initial evidentiary criteria, as required. The Director also concluded that the Petitioner had not established that she intends to continue working in the area of claimed extraordinary ability. The matter is now before us on appeal.

In these proceedings, it is the Petitioner's burden to establish eligibility for the requested benefit. Section 291 of the Act, 8 U.S.C. § 1361. Upon *de novo* review, we will sustain the appeal.

**I. LAW**

Section 203(b)(1)(A) of the Act makes immigrant visas available to aliens with extraordinary ability if:

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

The term "extraordinary ability" refers only to those individuals in "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The implementing regulation

at 8 C.F.R. § 204.5(h)(3) sets forth a multi-part analysis. First, a petitioner can demonstrate international recognition of his or her achievements in the field through a one-time achievement (that is, a major, internationally recognized award). If that petitioner does not submit this evidence, then he or she must provide sufficient qualifying documentation that meets at least three of the ten criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x) (including items such as awards, published material in certain media, and scholarly articles).

Where a petitioner meets these initial evidence requirements, we then consider the totality of the material provided in a final merits determination and assess whether the record shows sustained national or international acclaim and demonstrates that the individual is among the small percentage at the very top of the field of endeavor. *See Kazarian v. USCIS*, 596 F.3d 1115 (9th Cir. 2010) (discussing a two-part review where the documentation is first counted and then, if fulfilling the required number of criteria, considered in the context of a final merits determination); see also *Visinscaia v. Beers*, 4 F. Supp. 3d 126, 131-32 (D.D.C. 2013); *Rijal v. USCIS*, 772 F. Supp. 2d 1339 (W.D. Wash. 2011).

## II. ANALYSIS

The Petitioner is the design director at the [ ] Branch of [ ]  
[ ] She intends to open a design studio in [ ]

### A. Evidentiary Criteria

Because the Petitioner has not indicated or established that she has received a major, internationally recognized award, she must satisfy at least three of the alternate regulatory criteria at 8 C.F.R. § 204.5(h)(3)(i)–(x). The Petitioner claims to have met four criteria, summarized below:

- (i), Lesser nationally or internationally recognized prizes or awards;
- (iii), Published material about the alien in professional or major media;
- (v), Original contributions of major significance; and
- (viii), Leading or critical role for distinguished organizations or establishments.

The Director concluded that the Petitioner met only one of the evidentiary criteria, numbered (viii). On appeal, the Petitioner asserts that she also meets the other three claimed evidentiary criteria.

We will not disturb the Director's conclusion regarding criterion (viii). After reviewing all of the evidence in the record, we conclude that the Petitioner meets two additional criteria, numbered (i) and (iii), for the reasons explained below.

*Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.* 8 C.F.R. § 204.5(h)(3)(i)

The Petitioner's initial submission included information about various prizes, but the evidence was ambiguous as to whether or not she had actually received those prizes. The Petitioner's response to a request for evidence included more definitive documentation of her receipt of the prizes. The Director

discounted the awards, stating that they “appear to have local sponsors.” The Petitioner has shown that, while some events are named for a particular locality, their reputation is broader. The Petitioner did not receive the highest-level prizes available at those events (for instance, her works were named “Excellent” rather than “Best”), but the Petitioner has satisfactorily established the national recognition of her prizes.

*Published material about the alien in professional or major trade publications or other major media, relating to the alien’s work in the field for which classification is sought. Such evidence shall include the title, date, and author of the material, and any necessary translation.* 8 C.F.R. § 204.5(h)(3)(iii)

*Sina Home* published two interviews with the Petitioner, discussing her work. (Other media coverage in the record is less persuasive.) The Director noted that the publications were “posted to web portals,” and stated: “Documents from web portals, domains, blogs, and social media are not accepted because there are no assurances about the reliability of content from these open, user-edited sites.”

The Director is correct to observe that sites hosting publicly editable, user-generated content lack indicia of reliability and warrant very limited probative weight in immigration proceedings. *Matter of L-A-C-*, 26 I&N Dec. 516 (BIA 2015), citing *Badasa v. Mukasey*, 540 F.3d 909, 910–11 (8th Cir. 2008); *see also Bing Shun Li v. Holder*, 400 Fed.Appx. 854, 857–58 (5th Cir. 2010). These holdings, however, do not uniformly discredit *all* online media, and the record does not indicate that *Sina Home* is an open, user-edited site comparable to Wikipedia or Baidu Baike.

The Director also stated: “While it is true that these pages are widely available, the record does not show that these articles are widely read.” The printouts in the record, however, actually provide readership information with greater precision than is possible for print articles. (A publisher can document the number of copies sold of a given newspaper or magazine, but cannot show how many purchasers actually read any one specific article.)

The *Sina Home* articles include videos of the interviews with the Petitioner. The printouts show high view counts, which are particularly significant because they do not merely represent the website’s overall traffic; they pertain to the specific videos shown. The evidence supports the conclusion that *Sina Home* qualifies as major media.

The Petitioner has established, by a preponderance of the evidence, that she satisfies this criterion.

*Evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.* 8 C.F.R. § 204.5(h)(3)(v)

The Petitioner submits letters from several prominent interior designers, who attest to the Petitioner’s accomplishments and reputation within her field. These individuals, however, do not establish the major significance of specific, original contributions that the Petitioner has made. Asserting that her work has won awards does not suffice in this regard; awards fall under a separate category, already discussed. The awarding of a prize does not imply that the prize-winning work is an original contribution of major significance; rather, it shows that the work is superior to other works entered into the same competition.

General praise for the Petitioner's talent and skill does not identify specific contributions or establish the significance of those contributions.

The Petitioner has not satisfied this criterion. Nevertheless, she has satisfied three others, as discussed above. Therefore, we will evaluate the totality of the evidence in the context of the final merits determination below.

## B. Final Merits Determination

As the Petitioner submitted the requisite initial evidence, we will evaluate whether she has demonstrated, by a preponderance of the evidence, her sustained national or international acclaim and that she is one of the small percentage at the very top of the field of endeavor, and that her achievements have been recognized in the field through extensive documentation. In a final merits determination, we analyze a petitioner's accomplishments and weigh the totality of the evidence to determine if their successes are sufficient to demonstrate that they have extraordinary ability in the field of endeavor. *See* section 203(b)(1)(A)(i) of the Act; 8 C.F.R. § 204.5(h)(2), (3); *see also Kazarian*, 596 F.3d at 1119-20.<sup>1</sup> In this matter, we determine that the record as a whole supports a determination of eligibility.

The Petitioner has served as a leading designer at a major design firm. Her villa design for [REDACTED] [REDACTED] is one of several projects that won awards and attracted significant media attention in her field. The record demonstrates not only consistent success, but prominence, through high-profile projects and an important role with a nationally recognized design company. Taken as a whole, the evidence spanning several years indicates that the Petitioner has achieved not only success, but prominence, in her field of endeavor.

## C. Continued Work in the Field

The Petitioner plans to invest \$80,000 to establish a design studio in [REDACTED] and serve as its chief designer. The Petitioner explains why she chose the location, provides details about how the studio would operate, and explains how her strengths would appeal to her target clientele.

In denying the petition, the Director stated: "the record does not show the feasibility of opening such a studio with the amount of cash cited [in] the letter. The record does not show these funds are available as of the priority date of the petition."

The regulation at 8 C.F.R. § 204.5(h)(5) requires clear evidence that the Petitioner is coming to the United States to continue to work in the area of expertise. Further, the regulation indicates that the Petitioner can meet this requirement with "a statement . . . detailing plans on how he or she intends to continue his or her work in the United States." The Director did not sufficiently explain why the

---

<sup>1</sup> *See also* USCIS Policy Memorandum PM 602-0005.1, *Evaluation of Evidence Submitted with Certain Form I-140 Petitions; Revisions to the Adjudicator's Field Manual (AFM) Chapter 22.2, AFM Update AD11-14 4* (Dec. 22, 2010), <https://www.uscis.gov/legal-resources/policy-memoranda> (stating that USCIS officers should then evaluate the evidence together when considering the petition in its entirety to determine if the petitioner has established, by a preponderance of the evidence, the required high level of expertise for the immigrant classification).

Petitioner's statement does not satisfy this requirement. With respect to the availability of funds, businesses routinely borrow start-up funds; there is no implicit requirement that the Petitioner had to have all necessary cash in hand before she filed the petition. The record does not give cause to doubt the Petitioner's intention to continue working as an interior designer, and her past work as a high-ranking designer at a major firm indicates that the Petitioner has the necessary knowledge and experience to run a studio as she plans to do.

### III. CONCLUSION

The Petitioner has established that she meets at least three of the evidentiary criteria listed at 8 C.F.R. § 204.5(h)(3)(i)–(x). She has also demonstrated sustained national or international acclaim in her field and submitted extensive documentation of her achievements. Lastly, the Petitioner has shown that she intends to continue working in the United States in his area of expertise and that her entry will substantially benefit prospectively the United States. She therefore qualifies for classification as an individual of extraordinary ability.

**ORDER:** The appeal is sustained.